



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/02/2006 (Per: MDK)



➡ Appendix B ... Part 01 of 02

➡ The 2005 drafting file for LRB 05-4496/P2

has been transferred to the 2005 drafting file for

LRB 05s0511

➡ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

➡ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.

2005 DRAFTING REQUEST

Bill

Received: **01/27/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **David Lovell**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to: **david.lovell@legis.state.wi.us**
john.stolzenberg@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Governor's Task Force on Renewables

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 01/27/2006	wjackson 01/30/2006		_____			S&L
/P1			pgreensl 01/30/2006	_____	mbarman 01/30/2006		S&L
/P2	mkunkel 02/01/2006	kfollett 02/02/2006	chaugen 02/02/2006	_____	sbasford 02/02/2006		

FE Sent For:

<END>

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/P1		1/P2/gf 2/2	pgreensl 01/30/2006		mbarman 01/30/2006		

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1/?	mkunkel	1/Pl Wlj 1/27	1/30 PR	1/30 PR			

FE Sent For:

<END>

Kunkel, Mark

From: Lovell, David
Sent: Friday, January 20, 2006 6:34 PM
To: Kunkel, Mark
Cc: Stuart, Todd; Stolzenberg, John
Subject: Other revisions to SB 459

Attachments: Task Force Comments on Bill - final version.xls

Mark,

Here are the bulk of the instructions for modifying the remaining parts of SB 459. I have identified the source of each change, this time, mostly the task force comments. I have also attached a copy of the task force comments, arranged in the order that the comments arise in the bill, in case you want them. I have diverged from them, and I expect you may want to diverge further from what I have written, below.

The outstanding pieces that I am aware of are how to respond to comments 36, 37, & 38. Lee Cullen is consulting with task force members on them, and I hope to have instructions back to you on Monday.



Task Force
Comments on Bill - ..

If you want to call me over the weekend, my home number is 255-9931.

David

State Agencies

P. 10, l. 7: delete "2006" and substitute "2007". [task force comment 34]

P. 10, l. 11-12: delete those lines and substitute:

department shall do all of the following:

1. Calculate total annual electric energy on the basis of an average of the total annual electric energy during the 3 years prior to the specified dates.
2. For any individual agency building, consider only electric energy that is purchased from the electric provider that serves the agency building under an arrangement with a term of 10 years or more and electric energy derived from renewable resources owned by the state and produced for use in the agency building.

[task force comments 40 & 41]

P. 10, l. 16 to p. 11, l. 5: delete [Sen. Cowles]

Somewhere in ch. 16, I'm not sure where (maybe tack these and proposed s. 16.75 (12) onto s. 16.847? or s. 16.855? or s. 16.858? or create a new section?), insert:

16.XX (Y) No later than July 1 of each even numbered year every agency, as defined in s. 16.75 (12) (a) 1., shall submit a plan to the department, the joint committee on finance and the standing committee of each house of the legislature having jurisdiction over energy, for reduction of the cost of energy use by the agency. The plan shall include all system and equipment up-grades or installations that are estimated to result in energy cost savings equal to the cost of the up-grade or installation in not more than 5 years. The plan shall also identify potential means of financing the up-grades and installations other than reliance on appropriations of general purpose revenues. [Sen. Cowles]

16.XX (Z) In planning and designing space or water heating systems for new or existing state facilities, the department shall ensure that geothermal technologies are utilized to the greatest extent cost-effective and technically

feasible. [Sen. Cowles.]

Renewable Portfolio Standard

P. 34: create definitions:

(ag) "Baseline renewable percentage" means the average of an energy provider's renewable energy percentage reported to the department of administration under s. 196.478 (2) (c), 2003 stats., for 2001, 2002, and 2003." [task force comment 48]

(cm) "Municipal electric company", as defined in s. 66.0825 (3) (d) [task force comment 52]

(p) "Wholesale electric cooperative", as defined in s. 196.485(1)(k) [task force comment 53]

P. 34: amend definition:

196.378(1)(f) "Nonsystem renewable energy" means the amount of electricity that an electric provider sells to its retail customers or members and that is supplied or allocated under executed wholesale purchase contracts with another electric provider or from renewable facilities that are not owned or operated by the electric provider. "Nonsystem renewable energy" does not include any electricity that is not used to satisfy the electric provider's retail load obligations. [task force comment 51]

P. 35, l. 6-9: repeal the second sentence of this definition. [task force comment 45]

P. 35, l. 21: after that line, amend definition:

196.378(1)(o) "Total renewable energy" means the sum of an electric provider's system and nonsystem renewable energy except that it does not include any energy that is used to comply with the renewable energy requirements of another state. [task force comment 46]

P. 35, l. 23: delete that line and substitute:

196.378 (2) (a) 1. It is the goal of the state that, by December 31, 2015, at least 10% of the electric energy used in this state be derived from renewable resources.

2. Except as provided in par. (e), for the year 2010, each electric provider shall increase its renewable energy percentage so that it is at least 2 percentage points above the electric provider's baseline renewable percentage. Except as provided in par. (e), for the year 2015, each electric provider shall increase its renewable energy percentage so that it is at least 6 percentage points above the electric provider's baseline renewable percentage.

[task force comment 42, part, and comment 47]

P. 36, l. 5-7: delete those lines. [task force comment 42, part]

P. 36, l. 8: after that line, insert:

SECTION __. 196.378 (2) (b) 4. is amended to read:

196.378 (2) (b) 4. The members of a municipal electric company, ~~as defined in s. 66.0825 (3) (d), or the members of a wholesale electric cooperative~~ may aggregate and allocate renewable energy among themselves and such a member may sell credits or portions of a credit allocated to it.

[task force comments 54, 55, & 58]

P. 37, l. 1-4: delete those lines and substitute:

196.378 (2) (e) An electric provider, or a wholesale electric cooperative for its members, or a municipal electric company for its members, may request that the commission grant a delay for complying with a deadline specified in par. (a). The commission shall grant a delay if the commission determines that the applicant has demonstrated good faith efforts to comply with the deadline and that any of the following applies:

l. 5-18: substitute "applicant" for each occurrence of "electric provider".

[task force comment 56]

P. 37, I. 8: substitute "unreasonable" for "excessive". [task force comment 43]

P. 37, I. 11: delete that line and substitute : "increases that are due the discontinuation of federal renewable energy tax credits or other federal policies intended to reduce the acquisition costs of electricity derived from renewable resources." [task force comment 39]

P. 37, I. 18: after that line, insert:

SECTION __ 196.378 (2) (em) created:

196.378 (2) (em) A wholesale electric cooperative or municipal electric company may delay its compliance with a deadline specified in par. (a) if it provides documentation to the commission that the conditions described in par. (e) 2. apply.

[task force comment 57]

P. 38, I. 5: after "credit" insert "created after January 1, 2004".

I. 6: before the period, insert: ", and for the tracking of renewable resource credits by a regional renewable resource credit tracking system".

[task force comment 35]

P. 38, I. 16: after "facility" insert ", except a renewable facility owned by a retail customer of an electric provider," [task force comment 36]

P. 39, I. 6: delete lines 6-12 and substitute:

196.378 (4m) ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS. The commission may not impose on an electric provider any requirement that increases the electric provider's renewable energy percentage beyond that required under subd. 2. If an electric provider is in compliance with the requirements of subd. 2, the commission may not require the electric provider to undertake, administer, or fund any other renewable energy program.

[task force comment 42, part]

(End)
(for now)

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
34	TASK FORCE	RE - Gov RPS	Change interim target date to December 31, 2007.	2	page 10, lines 6-7	yes
40	TASK FORCE	RE - Gov RPS	Add definition of "long-term arrangement" as new Sec. 2. 16.75 (12) (a) 3.: "Long-term arrangement" means a period of ten years or longer.	2	page 9, line 14	yes
41	TASK FORCE	RE - Gov RPS	Add as new Sec. 2. 16.75 (12) (c): "For purposes of par. (b), use of renewable resources at a building or institution consists of energy derived from renewable resources purchased under a long-term arrangement with the electric provider serving the building or institution, or energy derived from renewable resources produced by the state for the use of the building or institution, or a combination thereof."	2	page 10, line 10	yes
12	TASK FORCE	EE - Equipment installed in new state construction	Reflect TF recommendation that the governor direct all state agencies and WHEDA to purchase or lease products/appliances that are nationally certified as energy efficient (p. 29).	3	page 11, line 12 thru page 12, line 17	yes
15	Edgar 12/8	EE - Definition of EE programs	Amend s. 16.957(1)(c) "Commitment to community program" means a low-income assistance, energy efficiency or <u>load management program</u> by a municipal utility or retail electric cooperative.	4	New page 12, lines 19 to 21 See also #17 on definition of "load mgt. program"	
16	TASK FORCE	EE - Definition of EE programs	Amend s. 16.957(1)(h) "Energy efficiency program" means a program for reducing the usage or increasing the efficiency of the usage of natural gas or electricity by retail utility customers. [note: s.196.374(1)(ar) incorporates this definition]	5	page 12, line 23 to page 13, line 2	yes
17	Edgar 12/8; amended 12/13	EE - Definition of EE programs	Create s. 16.957(1)(i) "Load management" means a program to allow a utility to control or modify daily or seasonal customer demand associated with equipment or devices used by a utility customer.	6	New SEC See also #15	
2	TASK FORCE	EE - Public Benefits	Eliminate combining low-income assistance programs (which remain Chapter 20 accounts and funds) and energy-efficiency and renewable-resource programs (which become PSCW-ordered and utility-collected regulatory programs) into a single category of "Public Benefits" by deleting the definition of "public benefits program" at p. 13, l. 21-22 and p. 29, l. 4-5 and deleting the terms "public benefits fee" or similar terms where they appear (e.g. at p. 13, l. 11 and l. 16). Instead refer where necessary to the specific program (low income assistance program or energy-efficiency and renewable-resource programs).	10	page 13, lines 21-22; page 29, lines 4-5; Also other SEC 84 & other	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
13	TASK FORCE	EE - DOA procedures re: PB programs	The draft apparently repeals the current requirement that the DOA consult with the Public Benefits Council regarding certain of its duties (e.g. setting the annual low-income need target and administering public benefits programs throughout the state). The TF did not recommend these changes in the Council's responsibilities. The draft also apparently repeals the current requirement that the DOA conduct a hearing prior to establishing requirements and procedures for low-income and energy-efficiency grants. The TF did not recommend this change. Delete these changes.	12	page 14, lines 5, 8-9, 20; page 15, lines 16-21. Also secs. 13, 15 & 17	yes
3	TASK FORCE	EE - Grant Priorities	Replace sentence with the following: "In directing the awarding of grants under this subdivision, the department shall, consistent with the orders of the commission under sec. 196.374(3m), give priority to programs that moderate the growth in electric and natural gas demand and usage by facilitating markets and assisting market providers to achieve higher levels of energy efficiency, promoting energy reliability and adequacy, avoiding adverse environmental impacts from the usage of energy, and promoting rural economic development."	15	page 14, line 25 thru page 15, line 3	yes
4	TASK FORCE	EE - DOA Administrative Responsibility	Delete p. 15, l. 17-21 and replace with the following: "Be responsible for administering on behalf of the commission the energy-efficiency programs under s. 196.374(3m), except those programs that the commission has authorized to be retained by an electric utility, in order to achieve the objectives determined by the commission under s. 196.374(3m), and the renewable-resource programs under s. 16.957(2)(b)2." Delete p. 17, l. 23-24 (no longer necessary given above change)	17	page 15, lines 17-21; page 17, lines 23-24. Also sec. 29	yes
19	TASK FORCE	EE - Clarify duties of DOA	s.16.957(2)(bg) add: "...including developing program initiatives and market strategies that address the needs of persons or businesses facing the most significant barrier to participation in energy efficiency programs. The department shall also seek to maximize coordinated program delivery, including coordination with low income weatherization programs, other energy efficiency programs, and utility-administered programs under s. 196.374(3m)(d)(e) and s.16.957(5)."	17	New page 15, lines 17 to 21	yes
14	TASK FORCE	EE - PB amount on customer bills	The bill requires identification on customers' monthly bills of the public benefits amount. The TF considered but did not recommend this measure. One of the reasons it did not recommend this measure is that it would single out one among many elements of the utility revenue requirements for disclosure. The TF (p. 19) recommended an annual cost-benefit statement for utility customers. This provision is included in the draft.	34	page 19, lines 8-16	yes
25	TASK FORCE	EE - Amount on Customer bill	Amend s. 196.374(6) by at end of 1st sentence: "...under sub.(3m)(c)1."	34	New page 19, lines 8 to 16	yes
31	TASK FORCE	EE - PB Annual Statements	[Note: would only apply to low-income public benefits funds] Rewrite sentence to read: "An electric utility shall provide customers with an annual statement produced by the commission that identifies cost and benefit information for public benefits programs for which the amounts collected under sub. (3m)(c) are used."	34	page 19, lines 12-16	yes
29	WIEG	EE - Industrial Cap	The Cap should stay.	42	page 20, line 13	under review
30	WPS	EE - Restore PB bill increase caps	Delete line 13 -- "SECTION 42. 16.957 (4) (c) 3. of the statutes is repealed." Consider extending caps through 2015.	42	page 20, line 13	under review

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
18	Edgar 12/8	EE - Definition of EE programs	Amend s.16.957(5)(e) Wholesale supplier credit. If a wholesale supplier has established a program for low-income assistance, energy efficiency or load management, a municipal utility or retail electric cooperative that is a customer or member of that wholesale supplier may do any of the following: 1. 2. add " .. the wholesale supplier has spent on energy efficiency and load management programs.. and "... has spent on energy efficiency and load management programs..."	54	page 22, lines 11 to 14	
1	TASK FORCE	EE - Titles	Change the title of sec. 16.957 from "Utility public benefits" to "Administration of low-income assistance, energy efficiency, and renewable resource programs." At p. 23, l. 17-21, change the title from "Utility public benefits fund" to "Low-income assistance fund." At p. 28, l. 9-10 change the title from "Public Benefits" back to "Low income assistance, energy efficiency and other programs."	62	page 23, lines 17-21; page 28, lines 9-10; multiple Also sec 76, multiple	yes
33	Clean Wisconsin	EE - Appliance Standards	Add minimum efficiency standards for appliances not regulated by federal standards (see TF report, page 31, # 12). SEE ACCOMPANYING PROPOSED AMENDMENT BY CLEAN WISCONSIN	75	New SEC creates s. 101.981	under review
62	ATC	EPL - Compliance	Proposed Amendment to bill: SECTION XX. 196.025 (1m) of the statutes is amended as follows: 196.025(1m). In acting on an application under s. 196.49 or 196.491 (3) for the construction, installation or operation of any electric transmission facilities or associated equipment, the commission does not need to find that the construction, installation or operation of the facilities would implement the policies specified in s. 1.12 (2) through (5) but the commission shall implement the policy specified in s. 1.12 (6) in making all decisions, orders, and rules affecting the siting of new electric transmission facilities. Add to s. 196.374(3) at p. 29, l. 21: "Each electric utility shall collect from its ratepayers and recover in rates, as provided in s. 196.374(5), an annual amount determined by the commission for programs under s. 196.374(3m). Funds collected under this section shall 1. Not be considered funds of the state nor available to meet the general obligations of the government or included in the financial reports of the state; 2. Be considered income of the electric utility, subject to s. 71.26(1)(g); 3. Only be used to achieve the regulatory objectives determined by the commission under s.196.374(3m)."	75	New SEC	under review
5	TASK FORCE	EE - Funding Security and Adequacy	Add to s. 196.374(3) at p. 29, l. 21: "Each electric utility shall collect from its ratepayers and recover in rates, as provided in s. 196.374(5), an annual amount determined by the commission for programs under s. 196.374(3m). Funds collected under this section shall 1. Not be considered funds of the state nor available to meet the general obligations of the government or included in the financial reports of the state; 2. Be considered income of the electric utility, subject to s. 71.26(1)(g); 3. Only be used to achieve the regulatory objectives determined by the commission under s.196.374(3m)."	89	page 29, line 21	yes
6	TASK FORCE	EE - Funding Security and Adequacy	Revise the first sentence s. 196.374(3m)(a)1 at p. 30, l. 16-24 as follows: "At least once every four years, the commission, after notice and opportunity to be heard, shall evaluate and set goals and priorities, measurable targets, and funding levels for energy efficiency and renewable resource programs that receive grants under s. 16.957(2)(b). The commission's overall program goals and priorities shall include the requirements of s. 16.957(2)(bg) and (2)(b)1."	90	page 30, lines 16-24	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
7	TASK FORCE (replaces # 6, 7 and 8 in 12/9 spreadsheet); amended 12/15	EE - Funding Security and Adequacy	Add to s. 196.374(3m)(a)1. at p. 30, l. 16: "The commission shall require each electric utility to spend funds for energy efficiency programs and related activities in order to help achieve reasonable cost, environmentally sound, and adequate energy services consistent with the commission's responsibilities under s. 196.025(1) and a utility's obligations under this chapter. The commission may not impose any additional requirement on an individual electric utility to fund energy efficiency programs beyond the amount established under this section, except as a remedial action for an electric utility's failure to comply with a commission order under sub. (d) (electric utility energy efficiency programs). If an electric utility is in compliance with sub. (3), the commission may not impose any additional funding or other energy efficiency requirements for energy efficiency programs except under this section on the electric utility."	90	page 30, line 16	yes
8	TASK FORCE (replaces # 10, 11, 12, 13, 32 and 33 in 12/9 spreadsheet)	EE - Funding Security and Adequacy (1 of 3)	Delete s. 196.374(3m)(a)2. at p. 31, l. 1-7, and replace with the following: 2. The collection of the funds for such programs shall occur under s. 196.374(3). The Commission shall provide a reasonably consistent and adequate multi-year budget that promotes program improvement, program stability, and maturation of programs and delivery resources. 3. In setting the annual funding level for energy efficiency and renewable programs that receive grants under s. 16.957(2)(b) the commission shall include the following criteria in its consideration: 1. energy-efficiency potential studies, including at least one study completed within the last 2 years that provides a prospective 5- and 10-year estimate of cost-effective potential in Wisconsin; 2. the potential short-term and long-term rate and bill impacts from proposed funding levels and alternative means to mitigate such impacts; 3. impacts on the effectiveness of current energy efficiency and renewables programs; insuring that time-limited and cost-effective energy-efficiency opportunities are captured; system reliability and adequacy; and societal impacts; 4. the potential for displacing or delaying construction of power plants and transmission lines; 5. the likely economic impacts that accrue from reducing state and private expenditures on coal, natural gas, fuel oil and other fossil fuel imports; 6. any other relevant factors. The commission shall set forth its findings and conclusions regarding these criteria in an order. 4. The commission shall oversee energy efficiency programs under this section. The commission shall provide for energy efficiency programs for residential and small commercial, agricultural, institutional and industrial customers that encompass the service territories of all electric utilities. The commission shall also provide for energy efficiency programs for customers that are not covered by a program administered by a utility under sub. (d), and may authorize programs that encompass the service territories of all electric utilities. The commission shall enter into an agreement with the department providing for the department to administer specific energy efficiency and renewable energy programs under this section, except for those subject to (d), as an agent of the commission and consistent with the department's duties and responsibilities under this section and s. 16.957. 6. The commission shall provide for an independent evaluation of programs implemented under this section. 7. The commission shall contract with a private entity to act as a fiscal agent.	90	page 31, lines 1-7	yes
9	TASK FORCE (replaces # 10, 11, 12, 13, 32 and 33 in 12/9 spreadsheet)	EE - Funding Security and Adequacy (2 of 3)	5. The commission shall enter into an agreement with the department providing for the department to administer specific energy efficiency and renewable energy programs under this section, except for those subject to (d), as an agent of the commission and consistent with the department's duties and responsibilities under this section and s. 16.957. 6. The commission shall provide for an independent evaluation of programs implemented under this section. 7. The commission shall contract with a private entity to act as a fiscal agent.	90	page 31, lines 1-7	yes
10	TASK FORCE (replaces # 10, 11, 12, 13, 32 and 33 in 12/9 spreadsheet)	EE - Funding Security and Adequacy (3 of 3)	Delete the last sentence of s. 196.374(c)(2) at p. 32, l. 1-4. Add new s. 196.374(3m)(e) at p. 33, l. 5: "An electric utility that provides all of its annual funds collected under s. 196.374(3) for use for programs under s. 196.374(3m)(a) is considered to satisfy its annual requirements with respect to customer-side energy conservation and efficiency under this section. An electric utility that retains funds under sub. (d) is considered to satisfy its annual requirements under this section when it provides all of its funds collected for use for programs under (3m)(a) and when the commission issues an order approving a program under sub. (d)."	90	page 31, lines 1-7	yes
11	TASK FORCE	EE - Funding Security and Adequacy	Delete the last sentence of s. 196.374(c)(2) at p. 32, l. 1-4. Add new s. 196.374(3m)(e) at p. 33, l. 5: "An electric utility that provides all of its annual funds collected under s. 196.374(3) for use for programs under s. 196.374(3m)(a) is considered to satisfy its annual requirements with respect to customer-side energy conservation and efficiency under this section. An electric utility that retains funds under sub. (d) is considered to satisfy its annual requirements under this section when it provides all of its funds collected for use for programs under (3m)(a) and when the commission issues an order approving a program under sub. (d)."	90	page 32, lines 1-4; page 33, line 5	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
20	TASK FORCE (replaces # 23 and 24 in 12/9 spreadsheet) amended 12/15	EE - Utility opt-out for large customers S. 196.374(3m)(d)	s. 196.374(3m)(d): Utility-administered energy efficiency programs: 1. The commission may allow but not require a public utility to retain a portion of the electric and natural gas amounts that the public utility is otherwise obligated to pay the fiscal agent for commercial, agricultural and/or industrial energy efficiency programs as established by the commission under sub. (3m)(1)(a), for an energy efficiency program administered by the utility for its large retail commercial, agricultural and/or industrial customers if the commission determines that such expenditure is in the public interest and that the energy efficiency program satisfies all of the following: a. (no change) b. The energy efficiency program is subject to independent evaluation by the commission. c. (no change) The commission may condition an order approving a utility request under this sub. as appropriate to achieve the public interest. A utility may only seek an order under this sub. during a proceeding commenced by the commission under s. 196.374(3m)(a)1. A utility with an order under this section may Amend Section 90 of the bill, Sec. 196.374(3m), at subd. (d)1.c. and d. by deleting the proposed language and substituting the following: "c. If a utility provides financing under an energy efficiency program under this sub. for a customer installation of energy efficiency processes, equipment, or appliances, the utility or its affiliates may not sell to or install for the customer those processes, equipment, appliances, or related materials. The customer shall acquire and obtain the installation of the processes, equipment, appliances, or related materials from an independent contractor of the customer's choice." "d. If the Commission approves an energy efficiency program under this sub. that allows the utility or its affiliates to provide services to a customer, the provision of any services to a customer shall be on a non-discriminatory basis and subject to a customer's choice."	90	New line 16 to page 33, line 5	yes
32	TASK FORCE (replaces # 39, 40 and 41 in 12/9 spreadsheet)	EE - Utility-administered EE programs	s. 196.374(3r) Fiscal Agent Duties: (add at end) " Balances in the fund for the programs under s. 16.957(2)(b) (including accrued interest) shall be carried over from fiscal year to fiscal year and shall remain ratepayer funds available only to support the programs authorized by this section and shall not be available to meet the general obligations of the state."	90	page 33, lines 1-2	yes
24	TASK FORCE	EE - Funding security provision to taking as lapsed funds	Add to s. 196.374 (4m): "The commission shall determine the amounts to be recovered from electric and natural gas utility customers."	91	New page 33, lines 7 to 13	yes
26	TASK FORCE	EE - Recovery of cost from elec & gas customers	Amend s. 196.374(4m) to read: Equitable funding. In carrying out its duties under sub. (3m), the commission shall ensure that the funds collected under sub. (3) for energy efficiency and renewable energy programs are equitably divided among electric utilities so that similarly situated customers pay equivalent charges and/or contribute equivalent amounts for the programs.	93	page 33, lines 16-19	yes
28	TASK FORCE	EE - Equitable recovery of funds s. 196.374(4m)	Amend s. 196.374(5) to read: Rate-making. Accounting: The commission shall ensure in rate-making orders that an electric and natural gas utility recovers from its ratepayers the amounts that the electric utility is required to pay to the fiscal agent under s. 196.374(3) except for funds retained by a utility under s. 196.374(3m)(d). The commission shall ensure in rate-making orders the recovery of prudent and reasonable expenditures by a utility for a program under s. 196.374(3m)(d). The commission may prescribe the accounting treatment of electric and natural gas utility expenditures received by the fiscal agent and retained by a utility under sub. (3m)(d), including the use of escrow accounting.	93	page 33, lines 16-19	yes
27	TASK FORCE	EE - Rate-making: Accounting s. 196.374(5)		94	page 33, lines 21-25	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
22	TASK FORCE	EE - Outstanding EE orders from recent CPCNs (1 of 2)	s. 196.374() Individual Utility Energy Efficiency Order Prior to Enactment of this Section (1) The commission may in its first proceeding under s. 196.374(3m)(a)1 consider a request by a utility required to provide retail energy efficiency and load management programs, as defined in s. 16.957(1)(i), within its service territory pursuant to a condition of an order approving a CPCN Order under s. 196.491(3) prior to the date of the enactment of this section to be relieved of its remaining obligation to administer energy efficiency programs by transferring such responsibility to the department upon terms determined to be in the public interest by the commission.	95	New SEC	yes
23	TASK FORCE	EE - Outstanding EE orders from recent CPCNs (2 of 2)	(2) The remaining annual energy efficiency program expenditures, at the time of or after enactment of this bill, required under a utility-specific energy efficiency program approved by the commission on or after January 1, 2001, shall be credited against a utility's annual energy efficiency funding obligation as determined by the commission under s. 196.374(3m) until the utility's approved funding obligation under the existing order have been fulfilled."	95	New SEC	yes
48	TASK FORCE	RE - Definition of "Baseline Renewable Percentage"	Add the following definition to Wis. Stat. 196.378 (1): "Baseline renewable percentage" means the average of the electric provider's renewable energy percentages for 2001, 2002 and 2003.	95	New SEC	yes
59	TASK FORCE amended 12/15	EPL - Compliance	Replace p. 34, l. 2-7 with the following: The commission's fulfillment of all of its duties and responsibilities under this section is shall be considered to satisfy the requirements of s. 196.025(1) with respect to customer-side energy conservation and efficiency in any application or proceeding to build or acquire facilities. An electric utility's application to build or acquire facilities is not subject to the requirements of s. 196.025(1) with respect to customer-side energy conservation and efficiency beyond the level established by the most recent commission order under s. 196.374(3m) if the electric utility has complied with the requirements of this section if the electric utility is in compliance with the most recent commission order under sub. (3).	95	page 34, lines 2-7	yes
61	WPPI & DPC 12/8	EPL - Compliance	Add to the end of proposed language by Edgar/Cullen: "A wholesale electric cooperative's or a municipal electric company's application under § 196.49 or § 196.491(3) is not subject to the requirements of § 196.025(1) with respect to customer-side energy conservation and efficiency beyond the energy efficiency funding level established by § 16.957(5), provided that the Commission determines that the wholesale electric cooperative's or municipal electric company's members are in the aggregate substantially in compliance with such level."	95	page 34, lines 2-7	under review
51	TASK FORCE	RE - Definition of nonsystem renewable energy	Consistent with the above proposed change, the definition of nonsystem renewable energy in 196.378 (1) (f) should be revised as follows: "Nonsystem renewable energy" means the amount of electricity that an electric provider sells to its retail customers or members and that is supplied or allocated under executed wholesale purchase contracts with another electric provider or from renewable facilities that are not owned or operated by the electric provider. "Nonsystem renewable energy" does not include any electricity that is not used to satisfy the electric provider's retail load obligations.	98	New SEC See also #50?	yes
52	TASK FORCE	RE - Munis and Coops	196.378 (1) (e) of the statutes is created to read: 196.378 (1) (e) "Municipal electric company" means a municipal electric company as defined in s. 66.0825 (3) (d).	98	Page 34, line 16	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
49	TASK FORCE	RE - Definition of renewable energy percentage	Under Section 99, 196.378 (1) (fm) is created to define renewable energy percentage. Subparagraph 2 of the proposed definition should be revised as follows: "2. The renewable resource credits created in a prior year or purchased by the electric provider, if any, that the electric provider elects to use in that year."	99	page 34, lines 23-24	yes
45	TASK FORCE	RE - Statewide RPS	Rewrite sentence to read: "Renewable facility" means an installed and operational electric generating facility, located in or outside this state, in which electricity is derived from a renewable resource.	100	page 35, lines 6-9	yes
37	TASK FORCE	RE - Electric-provider renewable facilities in other states	The draft defines system renewable facilities to include renewable facilities within an interconnected multistate system that serves the state. The TF intent (p. 35) was to include such facilities if "owned or operated by the electric provider" (renewables facilities not owned and operated by the electric provider or under contract with the electric provider are covered under the definition of "nonsystem renewable energy" (sec. 196.378(1)(f))).	103	page 35, lines 19-21	yes
38	TASK FORCE	RE - Multistate system clarification	Revise sentence as follows (new text underlined): "If the electric provider is part of an interconnected multistate system that serves this state, <u>including a wholesale electric cooperative, renewable facilities that are within that system.</u>	103	page 35, lines 20-21	yes
46	TASK FORCE	RE - Statewide RPS	Add to bill: 196.378 (1) (o) of the statutes is amended to read: 196.378 (1) (o) "Total renewable energy" means the sum of an electric provider's system and nonsystem renewable energy provided that any system and nonsystem renewable energy sold in an interconnected multistate system shall not be included if the energy is used to comply with the renewable energy requirements of another state.	103	NEW page 35, line 22	yes
53	TASK FORCE	RE - Munis and Coops	196.378 (1) (p) of the statutes is created to read: 196.378 (1) (p) "Wholesale electric cooperative" means a cooperative association organized under ch. 185 that sells electricity at wholesale to its members.	103	New SEC	yes
42	TASK FORCE; amended 12/15	RE - Statewide RPS	Rewrite section 104 as follows: 196.378 (2) (a) 1. It is the goal of the state that at least 10% of the electric energy consumed in the state be renewable energy by December 31, 2015. Except as provided in par. (e), by December 31, 2010, each electric provider shall increase its renewable energy percentage so that it is at least 2 percentage points above the electric provider's renewable energy percentage for 2004 reported under par. (c). Except as provided in par. (e), by December 31, 2015, each electric provider shall increase its renewable energy percentage so that it is at least 6 percentage points above the electric provider's renewable energy percentage for 2004 reported under par. (c). 2. The commission may not impose on an electric provider any requirement that increases an electric provider's renewable energy percentage or any other renewable energy requirement, provided that the electric provider is in compliance with sub. (2)(a), or is granted a delay under sub. (2)(e) for the period of such delay.	104	page 35, line 22 thru page 36, line 7	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
47	TASK FORCE	RE - Statewide RPS Baseline	Rewrite sentence to read: 196.378 (2) (a) 1. Except as provided in par. (e), by December 31, for the year 2010, each electric provider shall increase its renewable energy percentage so that it is at least 2 percentage points above the electric provider's baseline renewable energy percentage for 2004 reported under par. (e). Except as provided in par. (e), by December 31, for the year 2015, each electric provider shall increase its renewable energy percentage so that it is at least 6 percentage points above the electric provider's baseline renewable energy percentage for 2004 reported under par. (e).	104	page 35, line 23 thru page 36, line 4	yes
54	TASK FORCE	RE - Munis and Coops	196.378 (2) (b) 4. of the statutes is amended to read: 196.378 (2) (b) 4. The members of a municipal electric company, as defined in s. 66-0825 (3) (d), may aggregate and allocate renewable energy among themselves.	105	New SEC	yes
55	TASK FORCE	RE - Munis and Coops	196.378 (2) (b) 5. of the statutes is created to read: 196.378 (2) (b) 5. The members of a wholesale electric cooperative may aggregate and allocate renewable energy among themselves.	105	New SEC	yes
39	TASK FORCE	RE - Federal renewable policies	The draft defines "discontinuation of federal energy tax credits" as a situation that might cause excessive rate increases in order to comply with the standard. The TF (p. 37) defined this situation as "discontinuation of federal renewable energy tax credits or successor policies intended to reduce the acquisition costs of renewable electricity."	107	page 37, line 11	yes
43	TASK FORCE	RE - Off ramps	Replace "Excessive" with "Unreasonable"	107	page 37, line 10	yes
56	TASK FORCE	RE - Munis and Coops	Revise 196.378 (2) (e) as follows: "An electric provider, or a wholesale electric cooperative for its members, or a municipal electric company for its members, may apply for a delay in complying with a deadline specified in par. (a). If, after notice and opportunity to be heard, the commission determines that the applicant has demonstrated good faith efforts to comply with the deadline and the applicant has demonstrated any of the conditions set forth in 196.378 (2) (e) subd. 1-4, the commission shall grant a delay."	107	page 37, lines 1-4	yes
57	TASK FORCE	RE - Munis and Coops	In addition, in 196.378 (2) (e) subd. 1-4, change "electric provider" to "applicant" throughout. 196.378 (2) (e) 2. of the statutes as proposed in AB 841/SB 459 is changed by adding the following sentence at the end of the subsection: "The governing body of an applicant that is a wholesale electric cooperative or a municipal electric company may delay compliance with a deadline specified in par. (a) under this subsection without requesting a delay from the commission under this par. (e), provided that the governing body submits the reasons and supporting information for such decision to the commission."	107	page 37, lines 8-11	yes
35	TASK FORCE amended 12/15 (last sentence deleted)	RE - Statewide RPS	Rewrite sentence to read (new text underlined): "The commission shall promulgate rules that establish requirements for the creation and use of a renewable resource credit created after January 1, 2004, including calculating the amount of a renewable resource credit, and for the tracking of renewable resource credits by a regional renewable resource credit tracking system. The foregoing rules and limitations shall not apply to such a renewable facility owned by a retail customer of an electric provider."	108	page 38, lines 4-6	yes
50	TASK FORCE	RE - RRC allocation rules	Revise sentence to read (underlined text added): "The commission shall also promulgate rules that allow a wholesale customer of an electric provider to use an allocated portion of a credit, which is created or purchased by the electric provider, to establish compliance with sub. (2) (a), but only if the cost of renewable resources is included in wholesale rates paid by the wholesale customer. Similarly, the rules shall permit a wholesale customer of an electric provider to use an allocated portion of a credit created by an electric provider's past excess of total renewable energy. The rules shall specify the manner for making such allocation."	108	page 38, lines 6-11	yes

Num	Organization	Topic	Comments/Suggestions	Bill Section	Location in Bill	*Task Force Consensus?
58	TASK FORCE	RE - Munis and Coops	196.378 (3) (a) 1. of the statutes as proposed to be amended in AB 841/SB 459 is changed by adding the following sentence at the end of the subsection: "The rules shall also specify that retail electric cooperatives that are members of a wholesale electric cooperative, and members of a municipal electric company, may aggregate and sell renewable resource credits."	108	page 37, line 21 thru page 38, line 11	yes
36	TASK FORCE	RE - RRC definition- related to 1-1-04 delineation.	On page 38, line 18, add the following sentence: "The foregoing rule and limitation shall not apply to such a renewable facility owned by a retail customer of an electric provider."	109	page 38, line 18	yes
44	We Energies 12/8	RE - Establishing "need," alternate sites requirement, and cost-effectiveness	An application under Section 196.491 (3) to construct a renewable facility, is not subject to the requirements of: 1. s. 196.491(3)(d)2; 2. the alternative locations requirement under s196.(3)(d)3, provided that there are alternative locations with the proposed site for the placement of the renewable facility; 3. s196.491(3)(d) 3 that a renewable facility demonstrate that it is cost-effective or economic.	112	New SEC	under review
60	TASK FORCE amended 12/15	EPL - Compliance	Replace p. 39, l. 6-12 with the following: The commission's fulfillment of all of its duties and responsibilities under this section is shall be considered to satisfy the requirements of s. 196.025(1) with respect to renewable energy resources in any application or proceeding to build or acquire facilities. An electric provider's application to build or acquire facilities is not subject to the requirements of s. 196.025(1) with respect to renewable energy resources if the electric provider is in compliance with sub. (2)(a) or is granted a delay under sub. (2)(e) for the period of such delay.	112	page 39, lines 6-12	yes
63	TASK FORCE	OTHER - Revisions to Wis. Stat. 285.48	Draft revises portions of Wis. Stat. 285.48. Aside from technical changes needed to implement other portions of the bill, the subject of these revisions was not discussed by the TF.	114	Also secs. 115 to 119	yes
21	TASK FORCE	EE - Transition funding, contracts/ programs	"Initial applicability provisions" appear to be needed, at least, for the current EE funding level and existing means of collection; existing contracts for program administrators and other agents (e.g. M&E evaluation); existing programs/grants and program amounts continue as are subject to DOA; and oversight by DOA of on-going efforts must continue until the Commission has had the opportunity to hold a hearing and issue an order under s.196.374(3m) as well as enter into agreements with DOA and the fiscal agent.	122	page 41	yes

* "Under review" means that Task Force members are currently reviewing the specific proposed language.

"Yes" means that Task Force members are in consensus that the suggested change is consistent with the TF recommendations (but still need to review a complete draft that integrates all these changes).

A blank means that there is no current consensus as to that item.

Items that were deleted entirely from the 12/9/2005 spreadsheet due to redundancy include: 37, 51, 57, 63, 64, 75, 76, 77, 78, 79 and 80.

Kunkel, Mark

From: Lovell, David
Sent: Thursday, January 26, 2006 3:25 PM
To: Kunkel, Mark
Cc: Stolzenberg, John
Subject: RPS definitions

Mark,

I have been trying to figure out some of the terminology in the RPS definitions, and replace it with more transparent language while being sure that the desired policy was accomplished. After long talks at very high levels, I think that I have gotten something that will work. So, ignore what I said on the topic earlier (sorry) and instead:

Repeal the definitions of "system renewable energy" and "non-system renewable energy".

Replace the definition of "total renewable energy" currently in the draft with the following:

196.378(1)(o) "Total renewable energy" means the total amount of electricity derived from a renewable resource that the electric provider sold to its customers or members in a year. "Total renewable energy" does not include any energy that is used to comply with the renewable energy requirements of another state. "Total renewable energy" includes all of the following:

1. Electricity supplied by a renewable facility owned or operated by an affiliated interest or wholesale provider of an electric provider and allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale provider.
2. Electricity purchased by an affiliated interest or wholesale provider of an electric provider from a renewable facility that is not owned or operated by the affiliated interest or wholesale provider, which electricity is allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale provider.

Create a definition of "wholesale provider" as follows:

196.378 (1) () "Wholesale provider" means a wholesale electric cooperative or municipal electric company. [Note that both of those terms are being defined, also, by appropriate cross-references.]

Thanks--

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Kunkel, Mark

From: Lovell, David
Sent: Thursday, January 26, 2006 6:11 PM
To: Kunkel, Mark
Cc: Stolzenberg, John
Subject: RE: RPS definitions

I think we're ok with what I wrote. An electric provider is a retail entity; the two entities that make up wholesale provider are wholesale entities (specifically, Dairyland Power Cooperative and Wisconsin Public Power, Inc.)--so they are not electric providers, as that term is defined. I defined wholesale provider to reduce verbiage.

Also, as a heads-up, Senator Cowles gave new instructions for how the budget for programs under s. 196.374 will be set. I will write that up and get it to you tomorrow.

D

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

From: Kunkel, Mark
Sent: Thursday, January 26, 2006 5:22 PM
To: Lovell, David
Cc: Stolzenberg, John
Subject: RE: RPS definitions

"Wholesale provider" is defined below to mean a coop or muni. As a result, when you refer to a "wholesale provider" of an "electric provider", does that definition work?

Note also that s. 196.378 (5) refers to a "wholesale supplier". The supplier term might be confused with the provider term.

My suggestion is not to create the "wholesale provider" term, and simply spell out the references to coops and munis. What do you think?

From: Lovell, David
Sent: Thursday, January 26, 2006 3:25 PM
To: Kunkel, Mark
Cc: Stolzenberg, John
Subject: RPS definitions

Mark,

I have been trying to figure out some of the terminology in the RPS definitions, and replace it with more transparent language while being sure that the desired policy was accomplished. After long talks at very high levels, I think that I have gotten something that will work. So, ignore what I said on the topic earlier (sorry) and instead:

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Replace the definition of "total renewable energy" currently in the draft with the following:

196.378(1)(o) "Total renewable energy" means the total amount of electricity derived from a renewable resource that the electric provider sold to its customers or members in a year. "Total renewable energy" does not include any energy that is used to comply with the renewable energy requirements of another state. "Total renewable energy" includes all of the following:

1. Electricity supplied by a renewable facility owned or operated by an affiliated interest or wholesale provider of an electric provider and allocated to the electric provider under an agreement between the electric provider and the

affiliated interest or wholesale provider.

2. Electricity purchased by an affiliated interest or wholesale provider of an electric provider from a renewable facility that is not owned or operated by the affiliated interest or wholesale provider, which electricity is allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale provider.

Create a definition of "wholesale provider" as follows:

196.378 (1) () "Wholesale provider" means a wholesale electric cooperative or municipal electric company. [Note that both of those terms are being defined, also, by appropriate cross-references.]

Thanks--

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

2005

Date (time)
needed

Monday
1/30 Noon

LRB - 4496 / P1

BILL

O-NOTE

MDIT: WLj:

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Use the appropriate components and routines developed for bills.

AN ACT ^{gen cat} [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the

statutes; relating to: renewable energy and energy efficiency requirements, state energy conservation code, anaerobic digester research, and granting rule-making authority.

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

This is a preliminary draft. An analysis will be prepared for a subsequent version.

FE - S § L ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

INSERT A
INSERT B
INSERT C
INSERT D

INSERT E
END

[rev: 8/31/04 2005DF02(fm)]

at farms participating in the Discovery Farms Program under the Wisconsin Agricultural Stewardship Initiative.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.94 (1) (r) of the statutes is created to read:

13.94 (1) (r) Audit the records of the fiscal agent, as defined in s. 16.957 (1) (hm), as requested by the public service commission or the joint legislative audit committee.

SECTION 2. 16.75 (12) of the statutes is created to read:

16.75 (12) (a) In this subsection:

1. "Agency" means the department of administration, the department of corrections, the department of health and family services, the department of natural resources, the department of public instruction, the department of veterans affairs, the state fair park board, and the Board of Regents of the University of Wisconsin System.

2. "Agency building" means any state-owned or leased building that is occupied, operated, or used by an agency.

3. "Renewable percentage" means the percentage of total annual electric energy that is derived from renewable resources.

4. "Renewable resource" has the meaning given in s. 196.378 (1) (h) 1. or 2. and includes a resource, as defined in s. 196.378 (1) (j), that derives electricity from hydroelectric power.

SENATE BILL 459

INSERT A
(cont'd)

5. "Total annual electric energy" means the total annual amount of electric energy generated or purchased by the state for power, heating, or cooling purposes for all agency buildings.

(b) The department shall establish goals for each agency that are designed to accomplish the following goals:

1. That the renewable percentage for total annual electric energy by December 31, ~~2006~~²⁰⁰⁷, is at least 10 percent.

2. That the renewable percentage for total annual electric energy by December 31, 2011, is at least 20 percent.

(c) In determining whether the goals under par. (b) are accomplished, the department shall calculate total annual electric energy on the basis of an average of the total annual electric energy during the 3 years prior to the specified dates.

(d) Notwithstanding par. (b), an agency is not required to generate or purchase electric energy derived from renewable resources if the generation or purchase is not technically feasible or cost-effective.

(e) In each fiscal year, the department shall do all of the following:

1. Determine the costs incurred by each agency in the prior fiscal year to attain the goals established under par. (b) that are in excess of the costs the agency would have incurred in the prior fiscal year in the absence of such goals.

2. Determine the total costs determined under subd. 1. for all agencies and certify the total costs to the public service commission.

(f) 1. Except as provided in subd. 2., in each fiscal year, the department shall transfer from the utility public benefits fund to the general fund the amount determined under par. (e) 2., or \$1,000,000, whichever is less.

SENATE BILL 459

INSERT A (cont'd)

2. If an agency's electric utility costs are paid from a segregated fund, the department shall reduce the transfer to the general fund under subd. 1. by an amount that the department determines is attributable to such costs and the department shall transfer from the utility public benefits fund to the segregated fund the amount of the reduction.

(g) No later than March 1 of each year, the department shall submit a report to the governor and chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), concerning the degree of attainment and, if applicable, reasons for nonattainment by the state during the preceding year in meeting the goals established by the department under par. (b).

SECTION 3. 16.855 (10s) of the statutes is created to read:

16.855 (10s) (a) The department shall, by rule, prescribe and annually review and revise as necessary energy efficiency standards for equipment that is installed as a component of a construction project and that relates to heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function that consumes energy. The standards shall meet or exceed current applicable guidelines of the federal environmental protection agency relating to energy efficiency of the functions specified in this paragraph, guidelines that apply to the federal energy management program under 42 USC 8251 et seq., and standards established by the American society of heating, refrigerating and air-conditioning engineers.

(b) The department shall ensure that the specifications for any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function that consumes energy under any construction project contract administered by the department meet applicable

SENATE BILL 459

SECTION 3

INSERT A
↓ (cont'd)

standards established under par. (a). If there is no standard under par. (a) applicable to the type of equipment being purchased or if the equipment meeting that standard is not reasonably available, the department shall ensure that energy consumption within a building, structure, or facility and all equipment that is purchased under each contract administered by the department maximizes energy efficiency to the extent technically and economically feasible. The department shall not determine that equipment that meets the applicable standard under par. (a) is not reasonably available on the basis of cost alone unless the difference in the cost of the purchase and installation of the equipment that meets the standard and the equipment that would otherwise be installed is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed over the anticipated life of the equipment. The energy efficiency of equipment shall be considered to be economically feasible if the difference between the cost of the purchase and installation of energy-efficient equipment and the equipment that would otherwise be installed is not greater than the difference between the cost of operating energy-efficient equipment and the equipment that would otherwise be installed over the anticipated life of the equipment.

SECTION 4. 16.957 (1) (c) of the statutes is amended to read:

16.957 (1) (c) "Commitment to community program" means a program by a municipal utility or retail electric cooperative for low-income assistance or an energy conservation efficiency program by a municipal utility or retail electric cooperative.

SECTION 5. 16.957 (1) (h) of the statutes is amended to read:

16.957 (1) (h) "Energy conservation efficiency program" means a program for reducing the demand for natural gas or electricity or improving the efficiency of its use during any period, including a research and development program regarding the

INSERT 12-17

END of
INSERT A

SENATE BILL 459

INSERT B

1 customer applications of renewable resources resource programs in a fiscal year in
2 calculating the amount that the municipal utility or retail electric cooperative has
3 spent on energy conservation efficiency programs under par. (d) 1. b. or 3. b.

4 SECTION 57. 16.958 of the statutes is repealed.

5 SECTION 58. 20.505 (3) (rr) of the statutes is repealed.

6 SECTION 59. 20.505 (3) (s) of the statutes is repealed.

7 SECTION ~~60~~. 20.924 (1) (j) of the statutes is created to read:

8 20.924 (1) (j) Shall not enter into any lease or other contract that provides for
9 the construction of any building, structure, or facility, or portion thereof, for initial
10 occupancy by the state and that contains an option for the state to purchase the
11 building, structure, or facility unless the seller or lessor agrees that all equipment
12 to be installed as a component of the building, structure, or facility that relates to any
13 function that consumes energy meets applicable requirements for state building
14 projects under s. 16.855 (10s) (a). END of INSERT B

15 SECTION 61. 25.17 (1) (ai) of the statutes is repealed.

16 SECTION 62. 25.96 of the statutes is amended to read:

17 **25.96 Utility public benefits fund.** There is established a separate
18 nonlapsible trust fund designated as the utility public benefits fund, consisting of
19 deposits by the public service commission under s. 196.374 (3), public benefits fees
20 received fiscal agent under s. ss. 16.957 (4) ~~(a) (2) (c) 4.~~ and (5) (c) and (d) 1. a. and
21 contributions received under s. 16.957 (2) (e) 4 196.374 (3) and (3r).

22 SECTION 63. 25.97 of the statutes is repealed.

23 SECTION 64. 71.26 (1) (g) of the statutes is created to read:

24 71.26 (1) (g) *Electric utilities.* The amount that an electric utility, as defined
25 in s. 16.957 (1) (g), collects from customers under s. 16.957 (4) (a).

SENATE BILL 459

INSERT C:

1 not include any public benefits fees that are received from a municipal utility, as
2 defined in s. 16.957 (1) (q), or retail electric cooperative or under a joint program
3 established under s. 16.957 (5) (f).

4 SECTION 67. 77.54 (44) of the statutes is amended to read:

5 77.54 (44) The gross receipts from the collection of amounts under s. 16.957 (4)
6 (a) or public benefits fees that are charged under s. 16.957 (4) ~~(a) or~~ (5) (a).

7 SECTION ~~68~~ 79.005 (4) (d) of the statutes is amended to read:

8 79.005 (4) (d) Replacing steam generating equipment at a combustion-based
9 renewable facility, as defined in s. 196.378 (1) (g), that is located in this state, to
10 increase efficiency or capacity, if the facility remains a combustion-based renewable
11 facility, as defined in s. 196.378 (1) (g), after replacing the equipment.

12 SECTION ~~69~~ 101.027 (1) (intro.) and (a) of the statutes are consolidated,
13 renumbered 101.027 (1) (a) and amended to read:

14 101.027 (1) (a) In this section: (a) "Energy, energy conservation code" means
15 the energy conservation code promulgated by the department that sets design
16 requirements for construction and equipment for the purpose of energy conservation
17 in public buildings and places of employment.

18 SECTION ~~70~~ 101.027 (1) (b) of the statutes is repealed.

19 SECTION ~~71~~ 101.027 (2) of the statutes is amended to read:

20 101.027 (2) The department shall review the energy conservation code and
21 shall promulgate rules that change the requirements of the energy conservation code
22 to improve energy conservation. No rule may be promulgated that has not taken into
23 account the cost of the energy conservation code requirement, as changed by the rule,
24 in relationship to the benefits derived from that requirement, including the
25 reasonably foreseeable economic and environmental benefits to the state from any

SENATE BILL 459

INSERT C (Cont'd)

1 reduction in the use of imported fossil fuel. The proposed rules changing the energy
2 conservation code shall be submitted to the legislature in the manner provided under
3 s. 227.19. In conducting a review under this subsection, the department shall
4 consider incorporating, into the energy conservation code, design requirements from
5 the most current national energy efficiency design standards, including standard
6 90.1—1989 the International Energy Conservation Code or an energy efficiency code
7 other than standard 90.1—1989 the International Energy Conservation Code if that
8 energy efficiency code is used to prescribe design requirements for the purpose of
9 conserving energy in buildings and is generally accepted and used by engineers and
10 the construction industry.

11 **SECTION 72.** 101.027 (3) (a) 1. of the statutes is amended to read:

12 101.027 (3) (a) 1. A revision of standard 90.1—1989 the International Energy
13 Conservation Code is published.

14 **SECTION 73.** 101.027 (3) (a) 2. of the statutes is amended to read:

15 101.027 (3) (a) 2. Five Three years have passed from the date on which the
16 department last submitted to the legislature proposed rules changing the energy
17 conservation code.

18 **SECTION 74.** 101.027 (3) (b) 1. of the statutes is amended to read:

19 101.027 (3) (b) 1. If the department begins a review under sub. (2) because a
20 revision of standard 90.1—1989 the International Energy Conservation Code is
21 published, the department shall complete its review of the energy conservation code,
22 as defined in sub. (1) (a), and submit to the legislature proposed rules changing the
23 energy conservation code, as defined in sub. (1) (a), no later than 18 months after the
24 date on which the revision of standard 90.1—1989 the International Energy
25 Conservation Code is published.

SENATE BILL 459

SECTION 75

(INSERT C (contd))

1 SECTION 75. 101.027 (3) (b) 2. of the statutes is amended to read:

2 101.027 (3) (b) 2. If the department begins a review under sub. (2) because 5
3 3 years have passed from the date on which the department last submitted to the
4 legislature proposed rules changing the energy conservation code, the department
5 shall complete its review of the energy conservation code and submit to the
6 legislature proposed rules changing the energy conservation code no later than 9
7 months after the last day of the 5-year 3-year period.

END of INSERT C

8 SECTION 76. 196.374 (title) of the statutes is amended to read:

9 196.374 (title) ~~Low-income assistance, energy efficiency and other~~
10 Public benefits programs.

11 SECTION 77. 196.374 (1) (title) of the statutes is created to read:

12 196.374 (1) (title) DEFINITIONS.

13 SECTION 78. 196.374 (1) (a) of the statutes is renumbered 196.374 (1) (ag).

14 SECTION 79. 196.374 (1) (an) of the statutes is created to read:

15 196.374 (1) (an) "Electric utility" has the meaning given in s. 16.957 (1) (g), but
16 does not include a municipal utility, as defined in s. 16.957 (1) (q).

17 SECTION 80. 196.374 (1) (ar) of the statutes is created to read:

18 196.374 (1) (ar) "Energy efficiency program" has the meaning given in s. 16.957
19 (1) (h).

20 SECTION 81. 196.374 (1) (aw) of the statutes is created to read:

21 196.374 (1) (aw) "Fiscal agent" means the fiscal agent with which the
22 commission contracts under sub. (3m) (a) 4.

23 SECTION 82. 196.374 (1) (b) of the statutes is repealed.

24 SECTION 83. 196.374 (1) (be) of the statutes is created to read:

SENATE BILL 459

SECTION 95

INSERT D:

1 SECTION 95. 196.374 (7) of the statutes is created to read:

2 196.374 (7) STATE ENERGY POLICY. The commission's actions under this section
3 are considered to satisfy the requirements of s. 1.12 (2), (3) (a), and (4) (a), and the
4 requirements of s. 1.12 (5) that relate to conservation or efficient use of electric power.
5 An electric utility's application under s. 196.49 or 196.491 (3) is not subject to the
6 requirements of s. 196.025 (1) relating to energy conservation or efficiency if the
7 electric utility has complied with the requirements of this section.

8 SECTION 96. 196.378 (1) (a) of the statutes is amended to read:

9 196.378 (1) (a) "Biomass" means a resource that derives energy from wood or
10 plant material or residue, biological waste, crops grown for use as a resource or
11 landfill gases. "Biomass" does not include garbage, as defined in s. 289.01 (9), or
12 nonvegetation-based industrial, commercial or household waste, except that
13 "biomass" includes refuse-derived fuel used for a renewable facility that was in
14 service in this state before January 1, 1998.

15 SECTION 97. 196.378 (1) (bm) of the statutes is repealed.

16 SECTION 98. 196.378 (1) (e) of the statutes is repealed.

17 SECTION 99. 196.378 (1) (fm) of the statutes is created to read:

18 196.378 (1) (fm) "Renewable energy percentage" means, with respect to an
19 electric provider for a particular year, the percentage that results from dividing the
20 sum of the following by the total amount of electricity that the electric provider sold
21 to retail customers or members for that year:

- 22 1. The electric provider's total renewable energy for that year.
23 2. The renewable resource credits created or purchased by the electric provider,
24 if any, that the electric provider elects to use in that year.

Please
fix
comp.renumbered
196.378(1)
(ar)
and

INSERT 34-16

SENATE BILL 459

INSERT D
(cont'd)

3. The renewable resource credits, if any, allocated to the electric provider for that year under the rules promulgated under sub. (3) (a) 1.

SECTION 100. 196.378 (1) (g) of the statutes is amended to read:

196.378 (1) (g) "Renewable facility" means an installed and operational electric generating facility, located in or outside this state, in which electricity is derived from

a renewable resource. ~~"Renewable facility" includes a facility the installation or operation of which is required under federal law, but does not include a facility the installation or operation of which is required under the laws of another state even if the installation or operation of the facility is also required under federal law.~~

SECTION 101. 196.378 (1) (i) of the statutes is amended to read:

196.378 (1) (i) "Renewable resource credit" means a credit calculated in accordance with rules promulgated under sub. (3) (a) 1. and 2.

SECTION 102. 196.378 (1) (n) of the statutes is renumbered 196.378 (1) (n) (intro.) and amended to read:

196.378 (1) (n) (intro.) "System renewable energy" means the amount of electricity that an electric provider sells to its retail customers or members and that is supplied by renewable any of the following:

1. Renewable facilities owned or operated by the electric provider.

SECTION 103. 196.378 (1) (n) 2. of the statutes is created to read:

196.378 (1) (n) 2. If the electric provider is part of an interconnected multistate system that serves this state, renewable facilities that are within that system.

~~**SECTION 104.** 196.378 (2) (a) of the statutes is repealed and recreated to read:~~

~~196.378 (2) (a) 1. Except as provided in par. (e), by December 31, 2010, each electric provider shall increase its renewable energy percentage so that it is at least 2 percentage points above the electric provider's renewable energy percentage for~~

INSERT 35-21

SENATE BILL 459

SECTION 104

INSERT D
(cont'd):

2004 reported under par. (c). Except as provided in par. (e), by December 31, 2015, each electric provider shall increase its renewable energy percentage so that it is at least 6 percentage points above the electric provider's renewable energy percentage for 2004 reported under par. (c).

2. Except as provided in par. (e), by December 31, 2015, the renewable energy percentage for each electric provider shall be sufficient to ensure that the average renewable energy percentage of all electric providers is at least 10 percent.

SECTION 105. 196.378 (2) (b) 3. of the statutes is repealed.

SECTION 106. 196.378 (2) (c) of the statutes is amended to read:

196.378 (2) (c) No later than April 15 annually, or another annual date specified by the commission by rule, an electric provider shall submit a report to the department commission that identifies the electric provider's renewable energy percentage for the previous year and describes the electric provider's compliance with par. (a) and the electric provider's implementation plans for future compliance. Reports under this paragraph may include certifications from wholesale suppliers regarding the sources and amounts of energy supplied to an electric provider. The department commission may specify the documentation that is required to be included with reports submitted under this paragraph. The commission may require that electric providers submit the reports in a proceeding initiated by the commission under this section relating to the implementation of s. 1.12, or in a proceeding for preparing a strategic energy assessment under s. 196.491 (2). No later than 90 days after the commission's receipt of an electric provider's report, the commission shall inform the electric provider whether the electric provider is in compliance with par. (a).

SECTION 107. 196.378 (2) (e) of the statutes is repealed and recreated to read:

SENATE BILL 459

INSERT 37-14

1 196.378 (2) (e) An electric provider may request that the commission grant a
2 delay for complying with a deadline specified in par. (a) if, after notice and
3 opportunity to be heard, the electric provider demonstrates good faith efforts to
4 comply with the deadline and the electric provider demonstrates any of the following:

5 1. Notwithstanding reasonable efforts to protect against undesirable impacts
6 on the reliability of an electric provider's system, compliance with the deadline will
7 have an undesirable impact on the reliability of the electric provider's system.

8 2. Notwithstanding reasonable efforts to protect against excessive increases in
9 rates of the electric provider's ratepayers, compliance with the deadline will result
10 in excessive increases in rates of the electric provider's ratepayers, including
11 increases that are due to discontinuation of federal renewable energy tax credits.

12 3. Notwithstanding reasonable efforts to obtain required approvals, the electric
13 provider or a supplier has experienced or will experience delays in receiving required
14 siting or permitting approvals for renewable energy projects.

15 4. Notwithstanding reasonable efforts to secure transmission service, the
16 electric provider faces transmission constraints that interfere with the economic and
17 reliable delivery of electricity derived from renewable resources to the electric
18 provider's system.

19 SECTION 108. 196.378 (3) (a) of the statutes is renumbered 196.378 (3) (a) 1. and
20 amended to read:

21 196.378 (3) (a) 1. An Subject to subd. 2. an electric provider that provides total
22 renewable energy to its retail electric customers or members in excess of the
23 percentages specified in sub. (2) (a) 1. to 6. may, in the applicable year, create a
24 renewable resource credit and sell to any other electric provider a the renewable
25 resource credit or a portion of a the renewable resource credit at any negotiated

or other federal policies
intended to reduce the
acquisition costs of
electricity derived from renewable resources

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37-19

SENATE BILL 459

LRB-3616/2
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SECTION 108

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38-6

price. ~~Alternatively, an~~ An electric provider that creates or purchases a renewable resource credit or portion may use a renewable resource the credit or portion of a renewable resource credit in a subsequent year, as provided under par. (c), to establish compliance with sub. (2) (a). The commission shall promulgate rules that establish requirements for the creation and use of a renewable resource credit, including calculating the amount of a renewable resource credit. The commission shall also promulgate rules that allow a wholesale customer of an electric provider to use an allocated portion of a credit, which is created or purchased by the electric provider, to establish compliance with sub. (2) (a), but only if the cost of renewable resources is included in wholesale rates paid by the wholesale customer. The rules shall specify the manner for making such an allocation.

SECTION 109. 196.378 (3) (a) 2. of the statutes is created to read:

196.378 (3) (a) 2. The commission shall promulgate rules for calculating the amount of a renewable resource credit that is created from a renewable facility placed into service before January 1, 2004. The rules shall provide that the amount of a renewable resource credit created ^{after January 1, 2004} from such a renewable facility ^{after January 1, 2004} is limited to the incremental increase in output from the renewable facility that is due to capacity improvements made after January 1, 2004.

SECTION 110. 196.378 (3) (b) of the statutes is amended to read:

196.378 (3) (b) The commission may promulgate rules that establish requirements and procedures for a sale under par. (a) 1.

SECTION 111. 196.378 (3) (c) of the statutes is created to read:

196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a), 2003 stats., may not be used after December 31, 2011. A renewable resource credit created under par. (a) 1. or 2., as affected by 2005 Wisconsin Act (this act), may

Created after January 1, 2004

SENATE BILL 459

(INSERT D (cont'd))

INSERT 39-6 ✓

1 not be used after the 4th year after the year in which the credit is created, except the
2 commission may promulgate rules specifying a different period of time if the
3 commission determines that such period is necessary for consistency with any
4 regional renewable resource credit trading program that applies in this state.

5 **SECTION 112.** 196.378 (4m) of the statutes is created to read:

6 196.378 (4m) **STATE ENERGY POLICY.** The commission's actions under this section

7 are considered to satisfy the requirements of s. 1.12 (3) (b) and (4) (b) and (c), and the
8 requirements of s. 1.12 (5) that relate to the generation of electric power from
9 renewable energy resources. An electric provider's application under s. 196.49 or
10 196.491 (3) is not subject to the requirements of s. 196.025 (1) relating to the
11 generation of electric power from renewable energy resources if the electric provider
12 is in compliance with sub. (2) (a) or is granted a delay under sub. (2) (e).

13 **SECTION 113.** 196.86 of the statutes is repealed.

14 **SECTION 114.** 285.48 (1) (c) of the statutes is amended to read:

15 285.48 (1) (c) "Midcontinent area" has the meaning given in s. 16.958 (1) (e)
16 means the geographic area served by the Mid-Continent Area Power Pool reliability
17 council of the North American Electric Reliability Council, as such councils existed
18 in 1999.

19 **SECTION 115.** 285.48 (2) of the statutes is amended to read:

20 285.48 (2) **APPLICABILITY.** This section applies if the department of natural
21 resources, pursuant to a call, issues a state implementation plan that requires
22 electric generating facilities in the midcontinent area of this state to comply with
23 nitrogen oxide emission reduction requirements. If the department of natural
24 resources issues such a plan, the department of natural resources shall notify the
25 department of administration and the public service commission. The notice shall

END OF INSERT D

INSERT E:

1 ~~specify the date on which electric generating facilities in the midcontinent area of~~
2 ~~this state are required to comply with the initial nitrogen oxide emission reduction~~
3 ~~requirements.~~

4 SECTION 116. 285.48 (3) (d) 3. of the statutes is repealed.

5 SECTION 117. 285.48 (3) (d) 4. of the statutes is repealed.

6 SECTION 118. 285.48 (4) (a) of the statutes is amended to read:

7 285.48 (4) (a) The use of renewable energy, including renewable energy that
8 is provided by electric providers for the purpose of complying with the requirements
9 of s. 196.378 (2) (a), or renewable energy that is used under programs specified in s.
10 196.374 (2) (d) that are funded by expenditures under s. 196.374 (3) established
11 under s. 16.957 (2) (b).

12 SECTION 119. 285.48 (4) (b) of the statutes is amended to read:

13 285.48 (4) (b) The implementation of low-income weatherization and energy
14 conservation measures, including programs established under s. 16.957 (2) (a) or (b)
15 or programs specified in s. 196.374 (2) (a) or (b) that are funded by expenditures
16 under s. 196.374 (3) administered by electric utilities under s. 196.374 (3m) (d) or (e)
17 or by utilities, as defined in s. 196.374 (1) (c), 2003 stats., under s. 196.374 (3), 2003
18 stats.

19 SECTION 120: Nonstatutory provisions.

20 (1) REVIEW OF ENERGY CONSERVATION CODE. Notwithstanding section 101.027
21 (3) (a) and (b) of the statutes, the department of commerce shall begin a review of the
22 energy conservation code, as defined in section 101.027 (1) (a) of the statutes, on the
23 effective date of this subsection and shall complete that review and submit proposed
24 rules changing the energy conservation code as provided in section 101.027 (2) of the
25 statutes to the legislative council staff under section 227.15 (1) of the statutes by no

1 later than the first day of the 18th month beginning after the effective date of this
2 subsection. Notwithstanding section 101.027 (2) of the statutes, in conducting the
3 review under this subsection, the department of commerce, to the extent practicable,
4 shall consider incorporating into the energy conservation code design requirements
5 from the most current national energy efficiency design standards for new buildings,
6 except low-rise residential buildings, published by the American society of heating,
7 refrigerating, and air-conditioning engineers.

8 (2) ANAEROBIC DIGESTOR RESEARCH. The department of agriculture, trade and
9 consumer protection shall include, as part of its 2007-09 biennial budget request
10 that it submits to the department of administration under section 16.42 of the
11 statutes, a proposal to provide additional funding for the research and development
12 of anaerobic digestors at farms participating in the discovery farms program under
13 the Wisconsin agricultural stewardship initiative.

14 **SECTION 121. Initial applicability.**

15 (1) ENERGY EFFICIENCY STANDARDS. The treatment of sections 16.855 (10s) and
16 20.924 (1) (j) of the statutes first applies with respect to projects for which design
17 work begins on the effective date of this subsection.

18 **SECTION 122. Effective dates.** This act takes effect on the day after
19 publication, except as follows:

20 (1) ENERGY EFFICIENCY STANDARDS FOR EQUIPMENT INSTALLED IN STATE BUILDING
21 PROJECTS. The treatment of sections 16.855 (10s) and 20.924 (1) (j) of the statutes and
22 SECTION 120 (1) of this act takes effect on January 1, 2007.

23 (END)

END OF
INSERT E

INSERT 10-11:

do all the following:

1. Calculate total annual electric energy on the basis of an average of the total annual electric energy during the 3 years prior to the specified dates.

2. For any individual agency building, consider only electric energy that is purchased from the electric provider that serves the agency building under an arrangement with a term of 10 years or more and electric energy derived from renewable resources owned by the state and produced for use in the agency building.

INSERT 12-17:

~~SECTION 1.~~ 16.897 of the statutes is created to read:

16.897 Space and water heating systems. In planning and designing space or water heating systems for new or existing state facilities, the department shall ensure that geothermal technologies are utilized to the greatest extent ~~cost-effective~~ and technically feasible. *that is*

~~SECTION 2.~~ 16.953 of the statutes is created to read:

16.953 Energy cost reduction plans. No later than July 1 of each even^d numbered year, each agency, as defined in s. 16.75 (12) (a) 1., shall submit a plan to the department, the joint committee on finance, and the standing committee of each house of the legislature having jurisdiction over energy, for reduction of the cost of energy use^d by the agency. The plan shall include all system and equipment up^d-grades or installations that are estimated to result in energy cost savings equal to the cost of the up^d-grade or installation in not more than 5 years. The plan shall

1 also identify potential means of financing the up^ggrades and installations other than
2 reliance on appropriations of general purpose revenues.

3 **INSERT 34-15:**

4 **SECTION 3** 196.378 (1) (ag) of the statutes is created to read:

5 196.378 (1) (ag) "Baseline renewable percentage" means the average of an
6 energy provider's renewable energy percentage reported to the department of
7 administration under s. 196.478 (2) (c), 2003 stats., for 2001, 2002, and 2003.

8 **INSERT 34-16:**

9 **SECTION 4** 196.378 (1) (em) of the statutes is created to read:

10 196.378 (1) (em) "Municipal electric company" has the meaning given in s.
11 66.0825 (3) (d).

12 **SECTION 5** 196.378 (1) (f) of the statutes is repealed.

13 **INSERT 35-21:**

14 **SECTION 6** 196.378 (1) (n) of the statutes is repealed.

15 **SECTION 7** 196.378 (1) (o) of the statutes is repealed and recreated to read:

16 196.378 (1) (o) "Total renewable energy" means the total amount of electricity
17 derived from a renewable resource that the electric provider sold to its customers or
18 members in a year. "Total renewable energy" does not include any energy that is used
19 to comply with the renewable energy requirements of another state. "Total
20 renewable energy" includes all of the following:

21 1. Electricity supplied by a renewable facility owned or operated by an affiliated
22 interest or wholesale provider of an electric provider and allocated to the electric
23 provider under an agreement between the electric provider and the affiliated
24 interest or wholesale provider.

1 2. Electricity purchased by an affiliated interest or wholesale provider of an
2 electric provider from a renewable facility that is not owned or operated by the
3 affiliated interest or wholesale provider, which electricity is allocated to the electric
4 provider under an agreement between the electric provider and the affiliated
5 interest or wholesale provider.

6 ~~SECTION 8.~~ 196.378 (1) (p) of the statutes is created to read:

7 196.378 (1) (p) "Wholesale electric cooperative" has the meaning given in s.
8 196.485 (1) (k).

9 ~~SECTION 9.~~ 196.378 (1) (q) of the statutes is created to read:

10 196.378 (1) (q) "Wholesale provider" means a wholesale electric cooperative or
11 municipal electric company.

12 ~~SECTION 10.~~ 196.378 (2) (a) of the statutes is repealed and recreated to read:

13 196.378 (2) (a) Except as provided in par. (e), for the year 2010, each electric
14 provider shall increase its renewable energy percentage so that it is at least 2
15 percentage points above the electric provider's baseline renewable percentage.
16 Except as provided in par. (e), for the year 2015, each electric provider shall increase
17 its renewable energy percentage so that it is at least 6 percentage points above the
18 electric provider's baseline renewable percentage.

19 ~~SECTION 11.~~ 196.378 (2) (b) 4. of the statutes is amended to read:

20 196.378 (2) (b) 4. The members of a ~~municipal electric company~~, as defined in
21 s. ~~66.0825 (3) (d)~~, wholesale provider may aggregate and allocate renewable energy
22 among themselves and such a member may sell credits of portions of a credit
23 allocated to the member.

1 An electric provider, or a wholesale provider for its members, may request that the
2 commission grant a delay for complying with a deadline specified in par. (a). The
3 commission shall grant a delay if the commission determines that the applicant has
4 demonstrated good faith efforts to comply with the deadline and that any of the
5 following applies:

6 **INSERT 37-19:**

7 **SECTION 12.** 196.378 (2) (em) of the statutes is created to read:

8 196.378 (2) (em) A wholesale provider may delay its compliance with a deadline
9 specified in par. (a) if it provides documentation to the commission that the
10 conditions described in par. (e) 2. apply.

11 **INSERT 38-6:**

12 , and for the tracking of renewable resource credits by a regional renewable resource
13 credit tracking system

14 **INSERT 38-16:**

15 , except a renewable facility owned by a retail customer of an electric provider,

16 **INSERT 39-6:**

17 ADDITIONAL RENEWABLE RESOURCES REQUIREMENTS. The commission may not impose
18 on an electric provider any requirement that increases the electric provider's
19 renewable energy percentage beyond that required under sub. (2) (a). If an electric
20 provider is in compliance with the requirements of sub. (2) (a), the commission may
21 not require the electric provider to undertake, administer, or fund any other
22 renewable energy program.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4496/P1dn

MDK:.....

WLY

Sen. Cowles:

This preliminary draft consists of changes to the renewable resource portfolio standard and other provisions of SB 459. I will combine this draft with LRB-4303 to create a substitute amendment to SB 459.

Note that I did not include the following in this draft: "It is the goal of the state that, by December 31, 2015, at least 10% of the electric energy used in this state be derived from renewable resources." This goal does not appear to have any legal effect. Nothing appears to be contingent on whether or not the goal is met. Section 2.06 (1) (a) of the LRB's drafting manual provides: "The law consists of provisions intended to have a legal effect. Do not include material that has no legal effect in a draft for insertion into the statutes. This material impairs the usefulness of the statutes and may contribute to misinterpretation and confusion." As a result, I did not include the language in this draft.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4496/P1dn
MDK:wlj:pg

January 30, 2006

Sen. Cowles:

This preliminary draft consists of changes to the renewable resource portfolio standard and other provisions of SB 459. I will combine this draft with LRB-4303 to create a substitute amendment to SB 459.

Note that I did not include the following in this draft: "It is the goal of the state that, by December 31, 2015, at least 10% of the electric energy used in this state be derived from renewable resources." This goal does not appear to have any legal effect. Nothing appears to be contingent on whether or not the goal is met. Section 2.06 (1) (a) of the LRB's drafting manual provides: "The law consists of provisions intended to have a legal effect. Do not include material that has no legal effect in a draft for insertion into the statutes. This material impairs the usefulness of the statutes and may contribute to misinterpretation and confusion." As a result, I did not include the language in this draft.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Lovell, David
Sent: Friday, January 27, 2006 1:17 PM
To: Kunkel, Mark
Cc: 'Lee Cullen'; Stolzenberg, John
Subject: FW: Yet another

Attachments: 196.378 (B0719118)_2.DOC



196.378
719118)_2.DOC (25
Mark,

Since you have gotten to drafting the definitions in the RPS statute, I will forward this to you for consideration as to the best way to draft this.

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

-----Original Message-----

From: Lee Cullen [mailto:cullen@cwpb.com]
Sent: Friday, January 27, 2006 11:36 AM
To: Lovell, David
Cc: jdwilson@michaelbest.com; Michael Vickerman; Don Reck
Subject: Yet another

David - I realize you may already have sent your language of yesterday to drafting. Attached is a redline of your language from XCel intended to cover the situation of XCel providing renewable energy to its 10 muni/coop all-requirements customers, and the situation of XCel purchasing such energy from another utility for resale to such customers. Michael & I are OK with these changes.

Lee Cullen
Cullen Weston Pines & Bach LLP
122 West Washington Ave., Suite 900
Madison, WI 53703
E-Mail- cullen@cwpb.com
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Fax- (608) 251-2883
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196.378 (1) (o) "Total renewable energy" means the total amount of electricity derived from a renewable resource that the electric provider sold to its customers or members in a year. "Total renewable energy" does not include any energy that is used to comply with the renewable energy requirements of another state. "Total renewable energy" includes all of the following:

1. Electricity supplied by a renewable facility owned or operated by the electric provider.

2. Electricity supplied by a renewable facility owned or operated by an affiliated interest or wholesale provider of an electric provider and allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale provider.

Deleted: 1

3. Electricity purchased by an affiliated interest or wholesale provider of an electric provider from a renewable facility that is now owned or operated by the affiliated interest or wholesale provider, which electricity is allocated to the electric provider under an agreement between the electric provider and the affiliated interest or wholesale provider.

Deleted: 2

196.388 (1) () "Wholesale provider" means an electric utility selling electricity to another electric utility, a wholesale electric cooperative, municipal electric company or independent power producer. [Note that both of these terms are being defined, also, by appropriate cross-references.]

Deleted: or

Kunkel, Mark

From: Lovell, David
Sent: Wednesday, February 01, 2006 2:27 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: Changes to LRB-4496/P1

Attachments: changes to LRB-4496 P1.doc

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537



changes to
LB-4496 P1.doc (42.

Changes to LRB-4496/P1

1. Page 2, lines 4 to 6: Delete “the Department of Natural Resources,” and “the State Fair Park Board,” as the DOA does not include these agencies in its list of state agencies that are major energy users. [John CHECK with David and Todd]
2. Page 2, line 8: Substitute “facility” for “building” as facility is a broader term.
3. Page 2, line 17: Substitute “facilities” for “buildings”.
4. Page 4, lines 14 to 25: Consolidate repetitive language by inserting “either” after “par. (a)” on line 15, inserting “or is not cost-effective” after “alone” on line 16, and deleting the sentence on lines 20 to 25.
5. Page 6, line 11: Should a definition of the “International Energy Conservation Code” be substituted for the current definition of “Standard 90.1 – 1989” in s. 101.027? If so, more information needed to identify this code can be found at the following website:
<http://www.iccsafe.org/e/prodshow.html?prodid=3800L03&stateInfo=ncJkdlsbjnlajlkX9898%7C15>
[John CHECK if a definition will be tied to a specific version of the code and also raise delegation issues.]
6. Page 9, line 4: After “(3) (a) 1.” insert “that the electric provider elects to use in that year.” to clarify when the allocated credits will be used.
7. Page 10, lines 10 and 11: Use the term “wholesale supplier” as defined in s. 16.957 (1) (w), in lieu of the new definition of “wholesale provider” on these lines. Make appropriate changes in the text of the draft, such as on page 9, lines 23 and 25, page 10, lines 1, 3, 5, and 22, and page 11, line 17 and, if no longer needed, delete the definitions of “municipal electric

company” on page 8, lines 16 and 17, and “wholesale electric cooperative” on page 10, lines 6 to 8.

8. Page 10, lines 13 to 18: Clarify the amount of the required renewable energy percentage in years other than 2010 and 2015 by specifying that between the year of enactment and 2009 the required renewable energy percentage is the electric provider’s baseline renewable percentage, between 2011 and 2014 the required renewable energy percentage is the amount required in 2010, and that for 2016 and thereafter the amount of required renewable energy percentage is the amount required in 2015.

*check internal
X-1975 to
196.378
(2)(a)*

9. Page 10, line 18: After that line insert a provision that amends s. 196.378 (2) (b) 1. by substituting in that subdivision “total amount of electricity that the electric provider sold to retail customers or members for that year” [taken from page 8, lines 22 and 23 in the draft] for “total retail electric sales”.

10. Page 10, line 24: after that line, create:

196.378 (2) (b) 5. An electric provider that purchases renewable energy, at wholesale from a wholesale supplier or from another electric provider, may use an allocated share of the renewable energy sold by the wholesale supplier or other electric provider to comply with a requirement under par. (a) or to create a credit under sub. (3) (a), provided that the cost of the renewable energy is included in the price the electric provider paid the wholesale provider or other energy provider.

For this purpose, create definition of “renewable energy”:

196.378 (1) () “Renewable energy” means electricity derived from a renewable resource.

[There are a couple occurrences of “renewable energy” in current law, without definition; we could do the same in the new language, above, as an alternative to creating the definition now – your call.]

To integrate the term “renewable energy” into the whole of 196.378 [if you feel it is worth the time required at this point – again, your call]:

Page 9, lines 7 & 8: delete “in which electricity is derived from a renewable resource” and substitute “in which electricity is derived from a renewable resource that generates renewable energy”.

Page 9, lines 17 & 18: delete “electricity derived from a renewable resource” and substitute “renewable energy”.

Page 9, line 22 and page 10, line 1: delete “Electricity” and substitute “Renewable energy”.

Page 10, line 3: delete “electricity” and substitute “renewable energy”.

Page 11, line 7: after “of” insert “renewable”.

Page 12, lines 6 & 12: delete “electricity derived from renewable resources” and substitute “renewable energy”.

11. Page 12, line 3: Substitute “unreasonable” for “excessive” to parallel the adjective used on line 1.

12. Page 12, lines 7 and 10: After the coma insert “the applicant cannot comply with the deadline because”.

13. Page 12, lines 14 to 17: Delete SEC. 32.

14. Page 13, lines 5, 17, and 20: Insert “on or” before “after”.

15. Page 13, lines 7-12: delete those lines and substitute: “renewable resource credit tracking system. The rules shall specify the manner for aggregating or allocating credits under this subdivision or sub. (2) (b) 4. or 5.”.

16. Page 14, line 14: After the period insert “This subsection does not limit the authority of the commission to enforce an electric provider’s obligations under s. 196.374.” [This language parallels the text in s. 196.374 (2) (a) 3. created by LRB-4303/P3.]

17. Page 15, line 9: After that line insert a new nonstatutory provision along the lines of:

(1) Beginning on the effective date of this section... [revisor inserts date] and ending on June 30, 2007, the Public Service Commission may not do any of the following:

(a) Order an investor-owned natural gas or electric public utility to administer or fund any energy efficiency or renewable resource program that is in addition to the requirements of section 196.374 of the statutes. [Mark: can we cross-reference the definitions of these terms in the bill? They will not have taken effect when this section is effective.]

(b) Impose on an investor-owned electric public utility any requirement that has the effect of increasing the amount of total renewable energy, as defined in section 196.378 (1) (o) of the statutes, that the utility provides to its retail customers above the level required under section 196.378 (2) (a) of the statutes.

(2) Subsection (1) of this section does not affect the ability of the Public Service Commission to enforce the requirements of sections 16.957, 196.374, or 196.378 of the statutes.

(3) This section takes effect on the first day after publication of this act.

18. Page 15, line 18: Substitute "July 1, 2007" for "January 1, 2007."

Compiled for Senator Robert Cowles
By John Stolzenberg, Legislative Council
February 1, 2006

JES:rv

Kunkel, Mark

From: Lovell, David
Sent: Wednesday, February 01, 2006 3:56 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: RE: Changes to LRB-4496/P1

Mark,

We were suggesting use of the term "wholesale supplier" for consistency with 16.975, where it is used in the same manner, and affecting to the same parties. Since there are only 2 occurrences of "wholesale supplier" where the definition is **not** appropriate, perhaps we could replace that term in those provisions. In s. 196.378 (2) (c) it could be replaced with "persons who sell renewable energy to electric providers at wholesale" and in s. 196.378 (5) (intro) it could be replaced with either "person" or "person who sells renewable energy to electric providers at wholesale".

Does this work?

David

David L. Lovell, Senior Analyst
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608/266-1537

From: Kunkel, Mark
Sent: Wednesday, February 01, 2006 3:37 PM
To: Lovell, David
Subject: RE: Changes to LRB-4496/P1

Regarding item 7, "wholesale supplier" is used under current law in s. 196.378 as follows:

196.378(2)(c):

No later than April 15 annually, an electric provider shall submit a report to the department that describes the electric provider's compliance with par. (a). Reports under this paragraph may include certifications from **wholesale suppliers** regarding the sources and amounts of energy supplied to an electric provider. The department may specify the documentation that is required to be included with reports submitted under this paragraph.

196.378(5) (intro.) Penalty. Any person who violates sub. (2) or any **wholesale supplier** who provides an electric provider with a false or misleading certification regarding the sources or amounts of energy supplied to the electric provider shall forfeit not less than \$5,000 nor more than \$500,000. Forfeitures under this subsection shall be enforced by action on behalf of the state by the attorney general. A court imposing a forfeiture under this subsection shall consider all of the following in determining the amount of the forfeiture:

Unless you think otherwise, I will change the above references to "wholesale provider", without a definition. (You can't continue to use "wholesale supplier" in the above provisions, because that term will have a definition that doesn't really apply to the above.)

From: Lovell, David
Sent: Wednesday, February 01, 2006 2:27 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: Changes to LRB-4496/P1

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff

608/266-1537

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Kunkel, Mark

From: Lovell, David
Sent: Wednesday, February 01, 2006 3:39 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: RE: Changes to LRB-4496/P1

Mark,

Sounds good.

David

David L. Lovell, Senior Analyst
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608/266-1537

From: Kunkel, Mark
Sent: Wednesday, February 01, 2006 3:23 PM
To: Lovell, David
Subject: RE: Changes to LRB-4496/P1

Regarding item 5 (International Energy Conservation Code), I don't think a definition is necessary because it appears that there's no ambiguity over what that code is. If you google for it, you'd find it right away, for example. Also, I don't think a definition would add much. For example, if you said, "International Energy Conservation Code" means "the code that ... [add short narrative description] and that is adopted by the International Code Council", I don't think you would have added an awful lot.

As for delegation, we don't adopt the code, right? We just tell a state agency to look at it and consider incorporating it. If that's all we're doing, I don't think delegation is a problem.

From: Lovell, David
Sent: Wednesday, February 01, 2006 2:27 PM
To: Kunkel, Mark
Cc: Stolzenberg, John; Stuart, Todd
Subject: Changes to LRB-4496/P1

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